

COPY  
In opinion

B49

March 16, 1955.

Attorney General's

George F. Nelson  
Assistant Attorney General

Taxes and other Liens of Record

Stanton C. Otis, Right-of-Way Engineer  
Department of Public Works and Highways  
Annex  
Concord*See also  
opinion dated  
July 1, 1955  
and Oct 17, 1955  
- This folder*

Dear Sir:

Your inquiry of March 11, 1955 relative to the above subject is answered as follows in the order in which the questions are raised.

1. In searching title it is part of the state's responsibility to determine whether there are any taxes remaining unpaid on land proposed to be taken. Such taxes are a lien in accordance with Revised Laws, chapter 80, section 17. In some cases a lien may exist in favor of one individual for taxes paid on another's property (Revised Laws, chapter 74, section 25). Real estate and other property is taxed to the individual owning it on April 1st of each year (Revised Laws, chapter 74, section 1). (Revised Laws, chapter 73, section 7, amended by Laws of 1945, chapter 50 and Laws of 1951, chapter 23). The state can only acquire such interest as the individual had in the property at the time of taking and a taking after April 1 in any year from an individual is subject to the taxes assessed thereon April 1. The status of the tax bill should be determined before the award is made or tendered. If the state acquires by eminent domain in 1955 property upon which 1954 unpaid taxes remain as a lien the state has not acquired the full fee and satisfaction and payment of the tax bill is necessary to give the state proper title.

2. The same law is applicable to premises acquired by the state by deed. The state can only acquire by deed what the land owner has to convey. If title to the land or other property is subject to a lien for unpaid taxes the seller cannot deed the whole to the state without satisfying the lien. It is the responsibility of the state to examine into the title offered it to make sure that taxes are paid just as any private individual would do if he were buying real estate.

3. Your third question "Can the State against an owner's pleasure deduct from the owner's award and pay liens of record or attachments? Should this award instead be posted?" is not entirely clear to me and it is answered as follows:

(a) Assuming by the use of the word "award" that what is meant is a taking by eminent domain holders of lien of

CONCORD, N.H.

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(Stanton C. Otis)

record should be notified. Since a pending attachment in most cases presumes a disputed claim the award should be deposited with the Clerk of the Superior Court for the county in which such land or other property is situated in accordance with section 15 of part 4 of said Chapter 90, Revised Laws.

4. As to unpaid water bills to municipalities which are liens upon property acquired by deed and taking, the same provisions of law which I have set forth under 1 and 2 above apply to such bills. By section 22 of chapter 56, Revised Laws, all charges as gas, water, or electric rates for gas, water or electricity furnished to patrons in any municipality operating municipally owned gas, water or electric works are a lien for one year from the last item charged in said rates. The record in the office of the gas, water or electric department of such municipality is sufficient notice to maintain suit against subsequent purchasers. If you have acquired by deed or taking real estate upon which such outstanding liens exist you have not acquired the full title.

5. A telephone call or letter to your office notifying you of an unpaid bill is not to be recognized in a taking or in a deed unless with the consent or assignment of the person from whom the land is proposed to be purchased or taken. Unless a creditor by suit has placed an attachment upon the property involved his dispute with the person from whom you are taking or purchasing property is no concern of the state.

6. On a partial taking unpaid liens are required to be recognized and taken into account for the same reasons given under sections 1 and 2 above, namely, unless the taxes are satisfied the state has not acquired clear title.

Very truly yours,

George F. Nelson  
Assistant Attorney General

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